IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 35947 of 2007(D)

PETITIONERS:

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1. TOMY D., S/O. DEVASIA,
VANIYAPURACKAL HOUSE, AVULOOKUNNU P.O.,ALAPPUZHA.

2. JANCY THOMAS,
VANIYAPURACKAL, POONTHOPPU WARD, AVALOOKUNNU P.O.,
ALAPPUZHA.

3. MARTIN XAVIOUR,
MADHAVASSERI HOUSE, MALAKUNNAM P.O.,
CHANGANACHERRY, KOTTAYAM DISTRICT.

BY ADV. SRI.K.RAVEENDRAN
SRI.PMM.NAJEEB KHAN

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE KERALA PUBLIC SERVICE COMMISSION,
REP. BY THE SECRETARY, THIRUVANANTHAPURAM.

3. THE DISTRICT OFFICER,
KERALA PUBLIC SERVICE COMMISSION, DISTRICT OFFICE,
ALAPPUZHA.

R2-BY ADV.SRI.ALEXANDER THOMAS
R1-BY G.P.SRI.ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/12/2007, ALONG WITH WPC NO. 36065 OF 2002 & WPC NO. 36208 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.35947/2007

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 COPY OF THE JUDGMENT DTD 17.7.03 IN OP.NO.12244/00

EXT.P2 COPY OF THE ORDER DTD 12.1.2006 IN SLP.(CIVIL)NO.25202/05 PASSED BY THE HON'BLE SUPREME COURT.

EXT.P3 COPY OF THE PAPER PUBLICATION APPEARED IN MATHRUBHUMI THOZHIL VARTHA DTD 13.5.06.

EXT.P4 COPY OF THE HAND BOOK ISSUED BY THE ERNAKULAM DISTRICT CO-OPERATIVE BANK.

EXT.P5 COPY OF THE G.O.(MS)9/89/CO-OP.DTD 23.3.1988.

EXT.P5(a) COPY OF THE G.O.(MS)NO.63/89/CO-OP. DTD.18.12.89.

EXT.P6 COPY OF THE LETTER NO.AR 2(1) 382/2006/46 ALAPPUHA DTD 7.7.2006.

EXT.P6(a) COPY OF THE LETTER NO.AR 2(1) 382/2006/48 ALAPPUZHA DTD 7.7.2006.

EXT.P7 COPY OF THE SAID JUDGMENT DTD 24.10.2007 IN WP(C) NO.22211/2006 (T) PASSED BY THIS COURT.

EXT.P8 COPY OF THE RELEVANT PAGE OF THE MATHRUBHOOMI THOZHIL VARTHA DTD 17.11.07 SHOWING THE NEWS REGARDING THE DATE OF TEST.

/TRUE COPY/

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THOTTATHIL B. RADHAKRISHNAN, J.

W.P.(C).NO.35947 OF 2007 - D,
W.P.(C).NO.36065 OF 2007 – R &
W.P.(C).NO.36208 OF 2007 - I

Dated this the 13th day of December, 2007.

JUDGMENT

W.P.(C).NO.35947 OF 2007

Learned Government Pleader takes notice for the 1st respondent. Standing Counsel takes notice for respondents 2 and 3.

W.P.(C).NO.36065 OF 2007

Standing Counsel takes notice for respondents 1 and 2. Adv. Sri.P.V. Surendranath takes notice for the 3rd respondent.

W.P.(C).NO.36208 OF 2007

Standing Counsel takes notice for respondents 1 and 2. Adv. Sri.V.G.Arun takes notice for the 3rd respondent.

The issue raised in these writ petitions is regarding the

validity of a clause in a notification issued by the Kerala Public Service Commission. That notification fell for consideration of the Full Bench of this Court in W.P.(C).N.13921 of 2006 and connected cases. By the judgment dated 24.10.2007, the Full Bench held that the provision in that notification cannot exclude the petitioners in that case from participating in the selection on the ground of lack of qualification. The petitioners in the writ petitions in hand contend that they are persons similarly situated to those whose rights were decided as per the aforesaid judgment. However, in Paragraph-7 of the judgment, after noticing that the test was yet to be conducted, the Full Bench specifically stated that those who have not approached this Court will not get the benefits of that judgment as they are guilty of laches.

Under such circumstances, these writ petitions fail and they are accordingly dismissed.

THOTTATHIL B. RADHAKRISHANAN,
JUDGE.

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